

1 BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

2 BRIGHAM J. BOWEN  
3 Assistant Branch Director

4 GISELLE BARCIA  
Trial Attorney  
5 Civil Division, Federal Programs Branch  
U.S. Department of Justice  
6 1100 L Street NW  
Washington, D.C. 20005  
7 Telephone: (202) 305-1865  
Fax: (202) 514-8640  
8 E-mail: giselle.barcia@usdoj.gov

9 *Counsel for Defendants*

10  
11 **IN THE UNITED STATES DISTRICT COURT**  
12 **FOR THE DISTRICT OF ARIZONA**

13  
14 The Church of the Eagle and the Condor *et*  
15 *al.*,

16 Plaintiffs,

17 vs.

18 Merrick Garland *et al.*,

19 Defendants.  
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22-cv-01004

**ANSWER**

1 Defendants Merrick Garland, in his official capacity as Attorney General, Alejandro  
2 Mayorkas, in his official capacity as Secretary of the U.S. Department of Homeland Security,  
3 Anne Milgram, in her official capacity as Administrator of the U.S. Drug Enforcement  
4 Administration, and Troy Miller, in his official capacity as Acting Commissioner of the U.S.  
5 Customs and Border Protection, hereby respond to the Complaint (Doc. 1) filed by Plaintiffs  
6 Church of the Eagle and the Condor, Joseph Tafur, Belinda Eriacho, Kewal Wright, Benjamin  
7 Sullivan, and Joseph Bellus, following the court's order granting in part and denying in part  
8 Defendants' motion to dismiss (Doc. 26).

9 1. Defendants lack knowledge or information sufficient to confirm or deny the  
10 characterizations of the individual Plaintiffs in the allegations in paragraph 1, and, therefore,  
11 deny them.

12 2. Defendants lack knowledge or information sufficient to confirm or deny the  
13 allegations in paragraph 2, and, therefore, deny them.

14 3. Defendants admit that the Church of the Eagle and the Condor has submitted  
15 FOIA requests to DEA and CBP. Defendants deny the remaining allegations in paragraph 3.

16 4. The allegations in paragraph 4 are a prayer for relief to which no response is  
17 required. However, to the extent a response is required, Defendants deny that Plaintiffs are  
18 entitled to the relief requested.

19 5. The allegations in paragraph 5 are a prayer for relief to which no response is  
20 required. However, to the extent a response is required, Defendants deny that Plaintiffs are  
21 entitled to the relief requested.

22 6. The allegations in paragraph 6 are a prayer for relief to which no response is  
23 required. However, to the extent a response is required, Defendants deny that Plaintiffs are  
24 entitled to the relief requested.

25 7. The allegations in paragraph 7 are a prayer for relief to which no response is  
26 required. However, to the extent a response is required, Defendants deny that Plaintiffs are  
27 entitled to the relief requested.  
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1           8.     The allegations in paragraph 8 are a prayer for relief to which no response is  
2 required. However, to the extent a response is required, Defendants deny that Plaintiffs are  
3 entitled to the relief requested.

4           9.     The allegations in paragraph 9 are a prayer for relief to which no response is  
5 required. However, to the extent a response is required, Defendants deny that Plaintiffs are  
6 entitled to the relief requested.

7           10.    No response to paragraph 10 is required, as Plaintiffs' constitutional claims have  
8 been dismissed (Doc. 26). However, to the extent a response is required, Defendants deny  
9 the allegations in paragraph 10.

10          11.    The allegations in paragraph 11 are legal conclusions for which no response is  
11 required. However, should a response be required, Defendants deny the allegations in  
12 paragraph 11.

13          12.    Defendants lack knowledge or information sufficient to confirm or deny the  
14 allegations in paragraph 12, and, therefore, deny them.

15          13.    The allegations in paragraph 13 are legal conclusions for which no response is  
16 required. However, should a response be required, Defendants deny the allegations in  
17 paragraph 13.

18          14.    The allegations in paragraph 14 are legal conclusions for which no response is  
19 required. However, should a response be required, Defendants deny the allegations in  
20 paragraph 14.

21          15.    The allegations in the first sentence of paragraph 15 are legal conclusions for  
22 which no response is required. However, should a response be required, Defendants deny the  
23 allegations in the first sentence of paragraph 15. In addition, Defendants lack knowledge or  
24 information sufficient to confirm or deny the remaining allegations in paragraph 15, and,  
25 therefore, deny them.

26          16.    Defendants lack knowledge or information sufficient to confirm or deny the  
27 allegations in paragraph 16, and, therefore, deny them.  
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1           17. Defendants lack knowledge or information sufficient to confirm or deny the  
2 allegations in paragraph 17, and, therefore, deny them.

3           18. Defendants lack knowledge or information sufficient to confirm or deny the  
4 allegations in paragraph 18, and, therefore, deny them.

5           19. Defendants lack knowledge or information sufficient to confirm or deny the  
6 allegations in paragraph 19, and, therefore, deny them.

7           20. Defendants admit the allegations in paragraph 20.

8           21. Defendants admit the allegations in paragraph 21.

9           22. Defendants admit Anne Milgram is the Administrator of the U.S. Drug  
10 Enforcement Agency. Defendants deny the remaining allegations in paragraph 22.

11           23. Defendants aver that Christopher Magnus no longer serves as Commissioner  
12 of the U.S. Customs and Border Protection and should be substituted with Troy Miller in his  
13 official capacity as Acting Commissioner of the U.S. Customs and Border Protection as a  
14 Defendant in this case pursuant to Federal Rule of Civil Procedure 25(d).

15           24. Defendants admit the allegations in paragraph 24.

16           25. Defendants admit that Dimethyltryptamine is listed as a Schedule I controlled  
17 substance under 21 U.S.C. § 812. Defendants lack knowledge or information sufficient to  
18 confirm or deny the remaining allegations in paragraph 25, and, therefore, deny them.

19           26. Defendants admit that the term “*P. viridis*” does not appear in 21 U.S.C. § 801  
20 *et seq.* Defendants lack knowledge or information sufficient to confirm or deny the remaining  
21 allegations in paragraph 26, and, therefore, deny them.

22           27. Defendants lack knowledge or information sufficient to confirm or deny the  
23 allegations in paragraph 27, and, therefore, deny them.

24           28. Defendants lack knowledge or information sufficient to confirm or deny the  
25 allegations in paragraph 28 relating to “effects . . . known by Plaintiffs” and “[f]or Plaintiffs,”  
26 and, therefore, deny them. Defendants deny the remaining allegations in paragraph 28.

1           29. Defendants admit that UDV and Santo Daime are DEA registrants, following  
2 settlement agreements with the United States government. Defendants lack knowledge or  
3 information sufficient to confirm or deny the remaining allegations in paragraph 29, and,  
4 therefore, deny them.

5           30. Defendants lack knowledge or information sufficient to confirm or deny the  
6 allegations in paragraph 30, and, therefore, deny them.

7           31. Defendants admit that paragraph 31 accurately quotes the Report of the  
8 International Narcotics Control Board (2012). Defendants refer the court to the Report for a  
9 complete and accurate statement of its contents. Defendants lack knowledge or information  
10 sufficient to confirm or deny the remaining allegations in paragraph 31, and, therefore, deny  
11 them.

12           32. Defendants lack knowledge or information sufficient to confirm or deny the  
13 remaining allegations in paragraph 32, and, therefore, deny them. In addition, the allegations  
14 in paragraph 32 are legal conclusions for which no response is required. However, should a  
15 response be required, Defendants deny the allegations in paragraph 32.

16           33. The allegations in paragraph 33 are legal conclusions for which no response is  
17 required. However, should a response be required, Defendants refer the court to the cited  
18 opinion for a complete and accurate statement of its content and otherwise deny the  
19 allegations in paragraph 33.

20           34. The allegations in paragraph 34 are legal conclusions for which no response is  
21 required. However, should a response be required, Defendants refer the court to the cited  
22 filings and opinions for complete and accurate statements of their contents and otherwise  
23 deny the allegations in paragraph 34.

24           35. The allegations in paragraph 35 are legal conclusions for which no response is  
25 required. However, should a response be required, Defendants refer the court to the cited  
26 filings and Ninth Circuit opinion (to which paragraph 35 misattributes language not in the  
27  
28

1 opinion) for complete and accurate statements of their contents and otherwise deny the  
2 allegations in paragraph 35.

3 36. The allegations in paragraph 36 are legal conclusions for which no response is  
4 required. However, should a response be required, Defendants refer the court to the cited  
5 opinions for complete and accurate statements of their contents and otherwise deny the  
6 allegations in paragraph 36.

7 37. Defendants lack knowledge or information sufficient to confirm or deny the  
8 allegations in paragraph 37, and, therefore, deny them.

9 38. Defendants lack knowledge or information sufficient to confirm or deny the  
10 allegations in paragraph 38, and, therefore, deny them.

11 39. Defendants lack knowledge or information sufficient to confirm or deny the  
12 allegations in paragraph 39, and, therefore, deny them.

13 40. Defendants lack knowledge or information sufficient to confirm or deny the  
14 allegations in paragraph 40, and, therefore, deny them.

15 41. Defendants lack knowledge or information sufficient to confirm or deny the  
16 allegations in paragraph 41, and, therefore, deny them.

17 42. Defendants lack knowledge or information sufficient to confirm or deny the  
18 allegations in paragraph 42, and, therefore, deny them.

19 43. Defendants lack knowledge or information sufficient to confirm or deny the  
20 allegations in paragraph 43, and, therefore, deny them.

21 44. Defendants lack knowledge or information sufficient to confirm or deny the  
22 allegations in paragraph 44, and, therefore, deny them.

23 45. Defendants lack knowledge or information sufficient to confirm or deny the  
24 allegations in paragraph 45, and, therefore, deny them.

25 46. Defendants lack knowledge or information sufficient to confirm or deny the  
26 allegations in paragraph 46, and, therefore, deny them.

1           47. Defendants lack knowledge or information sufficient to confirm or deny the  
2 allegations in paragraph 47, and, therefore, deny them.

3           48. Defendants lack knowledge or information sufficient to confirm or deny the  
4 allegations relating to “what [Plaintiffs] experience” in paragraph 48, and therefore, deny them.  
5 Defendants deny the remaining allegations in paragraph 48. In addition, the allegations in  
6 paragraph 48 are legal conclusions for which no response is required. However, should a  
7 response be required, Defendants deny the allegations in paragraph 48.

8           49. Defendants deny the allegations in paragraph 49. In addition, the allegations in  
9 paragraph 49 are legal conclusions for which no response is required. However, should a  
10 response be required, Defendants deny the allegations in paragraph 49.

11           50. Defendants refer the court to the alleged note for a complete and accurate  
12 statement of its contents. Defendants lack knowledge or information sufficient to confirm or  
13 deny the allegations in paragraph 50, and, therefore, deny them.

14           51. Defendants refer the court to the alleged note for a complete and accurate  
15 statement of its contents. Defendants lack knowledge or information sufficient to confirm or  
16 deny the allegations in paragraph 51, and, therefore, deny them.

17           52. Defendants lack knowledge or information sufficient to confirm or deny the  
18 allegations in paragraph 52, and, therefore, deny them.

19           53. Defendants lack knowledge or information sufficient to confirm or deny the  
20 allegations in paragraph 53, and, therefore, deny them. In addition, the allegations in  
21 paragraph 53 are legal conclusions for which no response is required. However, should a  
22 response be required, Defendants deny the allegations in paragraph 53.

23           54. Defendants lack knowledge or information sufficient to confirm or deny the  
24 allegations in paragraph 54, and, therefore, deny them. In addition, the allegations in  
25 paragraph 54 are legal conclusions for which no response is required. However, should a  
26 response be required, Defendants deny the allegations in paragraph 54.

1           55. Defendants admit that counsel for Church of the Eagle and the Condor filed  
2 FOIA requests to both the CBP and the DEA on March 16, 2021. Defendants also admit  
3 that CBP provided responses. Defendants deny the remaining allegations in paragraph 55, as  
4 they mischaracterize CBP's responses.

5           56. Defendants admit that CBP provided Plaintiffs with the public version of the  
6 SAMEPH, which included redactions. The re-redacted, public version of the SAMEPH is  
7 available at [https://www.cbp.gov/document/guidance/2011-seized-asset-management-and-](https://www.cbp.gov/document/guidance/2011-seized-asset-management-and-enforcement-procedures-handbook)  
8 [enforcement-procedures-handbook](https://www.cbp.gov/document/guidance/2011-seized-asset-management-and-enforcement-procedures-handbook). Defendants deny the remaining allegations in  
9 paragraph 56.

10           57. Defendants admit the allegations in paragraph 57.

11           58. Defendants admit the allegations in paragraph 58. DEA provided partial  
12 responses to the FOIA requests on February 13, 2023, and continues processing the requests.

13           59. Defendants deny the allegations in paragraph 59. In addition, the allegations in  
14 paragraph 59 are legal conclusions for which no response is required. However, should a  
15 response be required, Defendants deny the allegations in paragraph 59.

16           60. Defendants lack knowledge or information sufficient to confirm or deny the  
17 allegations in paragraph 60, and, therefore, deny them. In addition, the allegations in  
18 paragraph 60 are legal conclusions for which no response is required. However, should a  
19 response be required, Defendants deny the allegations in paragraph 60.

20           61. The allegations in paragraph 61 are legal conclusions for which no response is  
21 required. However, should a response be required, Defendants deny the allegations in  
22 paragraph 61.

23           62. The allegations in paragraph 62 are legal conclusions for which no response is  
24 required. However, should a response be required, Defendants deny the allegations in  
25 paragraph 62.

26           63. Defendants incorporate by reference herein their responses to paragraphs 1  
27 through 63.  
28



1           64. The allegations in paragraph 64 are legal conclusions for which no response is  
2 required. However, should a response be required, Defendants deny the allegations in  
3 paragraph 64.

4           65. No response to paragraph 65 is required, as Plaintiffs' First Amendment claim  
5 has been dismissed (Doc. 26). However, to the extent a response is required, Defendants  
6 incorporate by reference herein their responses to paragraphs 1 through 65.

7           66. No response to paragraph 66 is required, as Plaintiffs' First Amendment claim  
8 has been dismissed (Doc. 26). However, to the extent a response is required, Defendants deny  
9 the allegations in paragraph 66.

10           67. No response to paragraph 67 is required, as Plaintiffs' First Amendment claim  
11 has been dismissed (Doc. 26). However, to the extent a response is required, Defendants  
12 incorporate by reference herein their responses to paragraphs 1 through 67.

13           68. No response to paragraph 68 is required, as Plaintiffs' First Amendment claim  
14 has been dismissed (Doc. 26). However, to the extent a response is required, Defendants deny  
15 the allegations in paragraph 68.

16           69. No response to paragraph 69 is required, as Plaintiffs' First Amendment claim  
17 has been dismissed (Doc. 26). However, to the extent a response is required, Defendants deny  
18 the allegations in paragraph 69.

19           70. No response to paragraph 70 is required, as Plaintiffs' Fifth Amendment claim  
20 has been dismissed (Doc. 26). However, to the extent a response is required, Defendants  
21 incorporate by reference herein their responses to paragraphs 1 through 70.

22           71. No response to paragraph 71 is required, as Plaintiffs' Fifth Amendment claim  
23 has been dismissed (Doc. 26). However, to the extent a response is required, Defendants deny  
24 the allegations in paragraph 71.

25           72. No response to paragraph 72 is required, as Plaintiffs' Fifth Amendment claim  
26 has been dismissed (Doc. 26). However, to the extent a response is required, Defendants  
27 incorporate by reference herein their responses to paragraphs 1 through 72.

1           73. No response to paragraph 73 is required, as Plaintiffs' Fifth Amendment claim  
2 has been dismissed (Doc. 26). However, to the extent a response is required, Defendants deny  
3 the allegations in paragraph 73.

4           74. No response to paragraph 74 is required, as Plaintiffs' Fifth Amendment claim  
5 has been dismissed (Doc. 26). However, to the extent a response is required, Defendants  
6 incorporate by reference herein their responses to paragraphs 1 through 74.

7           75. No response to paragraph 75 is required, as Plaintiffs' Fifth Amendment claim  
8 has been dismissed (Doc. 26). However, to the extent a response is required, Defendants deny  
9 the allegations in paragraph 75.

10           76. No response to paragraph 76 is required, as Plaintiffs' Ninth Amendment claim  
11 has been dismissed (Doc. 26). However, to the extent a response is required, Defendants  
12 incorporate by reference herein their responses to paragraphs 1 through 76.

13           77. No response to paragraph 77 is required, as Plaintiffs' Ninth Amendment claim  
14 has been dismissed (Doc. 26). However, to the extent a response is required, Defendants deny  
15 the allegations in paragraph 77.

16           78. Defendants incorporate by reference herein their responses to paragraphs 1  
17 through 78.

18           79. The allegations in paragraph 79 are legal conclusions for which no response is  
19 required. However, should a response be required, Defendants deny the allegations in  
20 paragraph 79.

21           80. Defendants deny the allegations in paragraph 80 characterizing the documents  
22 Plaintiffs seek as "public." Defendants lack knowledge or information sufficient to confirm  
23 or deny the allegations in paragraph 80, and, therefore, deny them.

24           81. Defendants incorporate by reference herein their responses to paragraphs 1  
25 through 81 above.

1           82. The allegations in paragraph 82 are legal conclusions for which no response is  
2 required. However, should a response be required, Defendants deny the allegations in  
3 paragraph 82.

4           83. Defendants deny the allegations in paragraph 83 characterizing the documents  
5 Plaintiffs seek as “public.” Defendants lack knowledge or information sufficient to confirm  
6 or deny the allegations in paragraph 83, and, therefore, deny them.

7           84. The allegations in paragraph 84 are a prayer for relief to which no response is  
8 required. However, to the extent a response is required, Defendants deny that Plaintiffs are  
9 entitled to the relief requested.

10           85. The allegations in paragraph 85 are a prayer for relief to which no response is  
11 required. However, to the extent a response is required, Defendants deny that Plaintiffs are  
12 entitled to the relief requested.

13           86. The allegations in paragraph 86 are a prayer for relief to which no response is  
14 required. However, to the extent a response is required, Defendants deny that Plaintiffs are  
15 entitled to the relief requested.

16           87. The allegations in paragraph 87 are a prayer for relief to which no response is  
17 required. However, to the extent a response is required, Defendants deny that Plaintiffs are  
18 entitled to the relief requested.

19           88. The allegations in paragraph 88 are a prayer for relief to which no response is  
20 required. However, to the extent a response is required, Defendants deny that Plaintiffs are  
21 entitled to the relief requested.

22           89. The allegations in paragraph 89 are a prayer for relief to which no response is  
23 required. However, to the extent a response is required, Defendants deny that Plaintiffs are  
24 entitled to the relief requested.

25           90. The allegations in paragraph 90 are a prayer for relief to which no response is  
26 required. However, to the extent a response is required, Defendants deny that Plaintiffs are  
27 entitled to the relief requested.  
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BRIGHAM J. BOWEN  
Assistant Branch Director

/s/ Giselle Barcia

GISELLE BARCIA

Trial Attorney

Civil Division, Federal Programs Branch

U.S. Department of Justice

1100 L Street NW

Washington, D.C. 20005

Telephone: (202) 305-1865

Fax: (202) 514-8640

E-mail: giselle.barcia@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I hereby certify that on May 3, 2023, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing a copy to the following CM/ECF registrants:

Jack Silver  
Law Office of Jack Silver  
708 Gravenstein Hwy N, Ste. 407  
Sebastopol, CA 95472-2808  
Tel.: 707-528-8175  
Fax: 707-829-0934  
E-mail: lhm28843@sbcglobal.net  
E-mail: jsilverenvironmental@gmail.com

Gilbert Paul Carrasco  
Willamette University College of Law  
19431 Sunray Lane, Ste. 102  
Huntington Beach, CA 92648-6401  
Tel.: 714-698-8142  
E-mail: carrasco@willamette.edu

Ismail L Ali  
1530 Campus Dr.  
Berkeley, CA 94708  
Tel.: 559-801-7317  
E-mail: lourido.ali@gmail.com

Martha J Hartney  
Hartney Law LLC  
4450 Arapahoe Ave.  
Boulder, CO 80303  
Tel.: 303-747-3909  
Fax: 303-835-7199  
E-mail: martha@hartneylaw.com

Sean T McAllister  
McAllister Law Office PC  
4035 E 3rd Ave.  
Denver, CO 80220  
Tel.: 720-448-6235  
E-mail: sean@mcallisterlawoffice.com

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s/ Giselle Barcia  
GISELLE BARCIA  
Trial Attorney  
Civil Division, Federal Programs Branch  
U.S. Department of Justice